IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SECOND APPEAL No. 21 of 2006
WITH
CIVIL APPLICATION NO.1448 OF 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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LEGAL HEIRS OF DECD. HARIBHAI KANJIBHIA BIN GORDANBHAI & 1 - Appellant(s)
Versus
PRADYUMAN HIRALAL BAROT & 4 - Defendant(s)

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Appearance :
MR SHIVANG J SHUKLA for Appellant(s) : 1 - 2, 2.2.1, 2.2.2, 2.2.3,2.2.4
MR NIRAV C THAKKAR for Respondent (s) : 1 - 5.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 02/11/2006

COMMON ORAL JUDGMENT

1. On 13th September, 2006 none appeared for the

appellants. Instead of dismissing the matter, the Court adjourned the matter to the next week. On 22nd September, 2006, learned counsel for the appellants prayed for time on the ground that they have misplaced their papers. The Court granted them almost about six weeks' time to reconstruct the file. It was directed that the matter be taken up for hearing on 2nd November, 2006. It was clearly stated in the order that the matter would not be adjourned on the said date.

2. When the matter was taken up for hearing in the first round, Mr. Rakesh Patel under the authority of Mr. Shukla appeared and prayed for time. When he was confronted with the order dated 22nd September, 2006, he submitted that he would call Mr. Shukla. Mr. Shukla is present in the Court and in a very apologetic manner says that the case be adjourned because he could not reconstruct the file. I am sorry to record that the request made by the learned counsel is not only improper but undermines the order dated 22nd September, 2006. When the Court granted almost

about six weeks' time, it should have been the duty of the counsel to reconstruct the file and ready to argue the matter.

3. Adjournment is not the rule, it is an exception and in a case where the matter is being adjourned right from 17th March, 2005 under one count or the other, further adjournment on the ground of non-availability of the records would be adding a premium to wrong. Mr. Shukla is not ready to argue the matter. The appeal is dismissed. Consequently the Civil Application for stay is also rejected. Interim order, if any, is vacated.

(R.S.GARG, J.)

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